

DISTRICT COURT, WATER DIVISION NO. 5  
STATE OF COLORADO  
109 8th Street, Suite 104  
Glenwood Springs, CO 81601  
(970) 928-3065

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CASE NUMBER: 2017CW3258

**Concerning the Application for Water Rights of:**

**THE SNOWMASS WATER AND SANITATION  
DISTRICT, a Colorado special district,**

**in PITKIN AND EAGLE COUNTIES, Colorado**

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**▲ COURT USE ONLY ▲**

Case Number:

17CW\_\_\_\_\_

Div.:

Ctrm.:

**APPLICATION FOR CONDITIONAL SURFACE WATER RIGHT,  
APPROVAL OF PLAN FOR AUGMENTATION, AND CONDITIONAL  
APPROPRIATIVE RIGHTS OF EXCHANGE**

1. *Name, address and telephone number of Applicant:*

Snowmass Water and Sanitation District ("SWSD")  
c/o Kit Hamby, Manager  
P.O. Box 5700  
Snowmass Village, CO 81615  
(970) 923-2056

*with copies to:*

Mark E. Hamilton, Esq.  
Tarn Udall, Esq.  
Holland & Hart LLP  
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**FIRST CLAIM FOR RELIEF:  
CONDITIONAL SURFACE WATER RIGHT**

2. *Name of Structure:* SWSD Roaring Fork Intake Pipeline.

A. *Location:* NW 1/4 of NE 1/4 of Sec. 21, T. 9 S., R. 85 W. 6th P.M., at a point approx. 1789 ft. W. of the E. Sec. line, and 371 ft. S. of the N. Sec. line\*; UTM: NAD 83, Zone 13N, 4347491m N, 337408m E. **See Figure 1.**

\*Section lines in the Aspen/Snowmass area have not been officially surveyed by the USGS or BLM and thus any legal description based on section lines may not be accurate.

B. *Source:* Roaring Fork River, tributary to the Colorado River.

C. *Amount:* 9.0 c.f.s.

D. *Appropriation information:*

(1) *Appropriation date:* December 31, 2017.

(2) *Appropriation initiated by:* determination of need for this water right following engineering studies and approval of same by SWSD's Board of Directors, formation of intent to appropriate water rights, and the filing of this application.

(3) *Date of application of water to beneficial use:* N/A

E. *Uses or proposed uses:* municipal, including but not limited to domestic, commercial, irrigation, recreation, industrial and other beneficial uses associated with SWSD's provision of potable water service to its customers in and around the Town of Snowmass Village, Colorado, either directly or after storage in SWSD's present or future raw or treated water storage facilities.

F. *Name(s) and address(es) of owner(s) of the land upon which structure would be located:*

Anthony and Kathryn Grant

P.O. Box 50235  
Austin, TX 78763

- G. *Remarks:* SWSD provides water service within the Town of Snowmass Village and surrounding service area as depicted on **Figure 1**. Historically, SWSD's principal water supplies have come from Snowmass Creek. In order to enhance resiliency of SWSD's water system, SWSD seeks to develop a supplemental physical source of supply from the Roaring Fork River for use when the quantity or quality of water available to SWSD from Snowmass Creek is limited due to events such as droughts, landslides, forest fires, avalanches, physical equipment failures or other emergencies. During periods when a senior water right located below the Roaring Fork River/Fryingpan River confluence places a valid call on the Roaring Fork River, this water right will operate pursuant to the plan for augmentation and exchange described below in Sections 3-5 (plan for augmentation) and Section 7 (SWSD Exchange No. 2).

**SECOND CLAIM FOR RELIEF:  
PLAN FOR AUGMENTATION**

3. *Description of Water Rights to be Augmented:*
- A. SWSD Roaring Fork Intake Pipeline (as described above in First Claim).
4. *Description of Water Rights to be Used for Augmentation:*
- A. Ruedi Reservoir: water rights and supplies available to SWSD pursuant to Contract No. CW 12004 with the United States Bureau of Reclamation for 500 acre feet of annual supply from the marketable yield of Ruedi Reservoir, and such additional amounts as SWSD may obtain in the future pursuant to additional or supplemental contracts with the Bureau.
- (1) Legal description of place of storage: Ruedi Reservoir is located in Sections 7, 8, 9, 11 and 14 through 18, T. 8 S., R. 84 W., 6th P.M., in Eagle and Pitkin Counties. The dam axis intersects the right abutment at a point whence the SW corner of Section 7, T. 8 S., R. 84 W. of the 6th P.M. bears N. 82° 10' W a distance of 1,285 feet.
- (2) Source: Fryingpan River.
- (3) Previous decrees for Ruedi Reservoir:

- (a) Civil Action No. 4613: Decree Date: June 20, 1958. Court: Garfield County District Court. Amount: 140,697.3 acre feet, reduced to 102,369 acre feet pursuant to order of the Water Court in Case No. W-789-76. The full amount was made absolute in Case No. 88CW85. Appropriation Date: July 29, 1957. Uses: Domestic, municipal, irrigation, industrial, generation of electrical energy, stock watering and piscatorial.
- (b) Case No. 81CW34: Decree Date: April 8, 1985. Court: District Court, Water Div. No. 5. Amount: 101,280 acre feet (refill); of this amount, 44,509 acre feet were made absolute in Case No. 95CW95 and 25,257 acre feet were Colorado River Water Projects Enterprise Water Rights Descriptions August 2008 Page 4 of 9 made absolute in Case No. 01CW269, for a total of 69,766 acre feet absolute. Appropriation Date: January 22, 1981. Uses: Irrigation, domestic, municipal, generation of electrical energy, stock watering, industrial, piscatorial, recreation and maintenance of sufficient storage reserves to fulfill contractual obligations and provide stored water for recreation in times of drought.
- (4) Additional or alternate replacement supplies: In accordance with C.R.S. § 37-92-305(8)(c), as may be amended or revised, SWSD may use alternative or additional sources of water for augmentation, substitution, replacement, and exchange pursuant to the final decree entered for this application. SWSD shall comply with all statutorily required procedures in place at the time SWSD seeks to use such additional or alternative supplies in this plan for augmentation.

5. *Statement of Plan for Augmentation.*

A. Overview:

The purpose of this plan for augmentation is to allow for SWSD to be able to continue to operate the SWSD Roaring Fork Intake Pipeline water right (*see above* First Claim) by providing replacement water released from Ruedi Reservoir during times when the Roaring Fork or Colorado River systems are under administration due to senior calls originating below the confluence of the Roaring Fork and Fryingpan Rivers near the Town of Basalt, Colorado.

B. Diversions and depletions.

SWSD's water service area (including extra-territorial water service to the Brush Creek Metropolitan District) is depicted on **Figure 1**. To determine the amount of out-of-priority depletions to be augmented pursuant to this plan, domestic consumption within the areas served by SWSD's wastewater treatment system will be calculated using the difference between the flow measuring devices at SWSD's water treatment plant and wastewater treatment plant effluent. Domestic use within the Brush Creek Metropolitan District will be assumed to be 15% consumptive due to the use of individual sewage disposal systems (ISDS). Water used in either area for outdoor irrigation shall be assumed to be 80% consumptive. According to Glover analyses completed by SWSD's engineers, due to local geology and relative distances from the Brush Creek and the Roaring Fork River, lagged return flows from ISDS and outdoor irrigation accrue evenly over 12 months (8.3% per month). SWSD will develop measuring and accounting systems acceptable to the Division Engineer to facilitate future administration of this plan.

C. Downstream calls.

The Roaring Fork River and the Colorado River are subject to periodic water rights calls from downstream irrigation water rights after spring runoff each year. Historically, the Cameo call has been placed for one week in April, one week in May, two weeks in June, all of July through October, and one week in November. The synthetic call used by SWSD's engineers for purposes of developing this plan for augmentation assumes 14 call days in April, 7 call days in May, 15 call days in June, and calls throughout July through October. The plan proposed herein will provide water released from storage in Ruedi Reservoir to replace in time and amount all out-of-priority depletions that would otherwise result due to use of the SWSD Roaring Fork Intake Pipeline during such call periods. This plan will operate in conjunction with the SWSD Exchange No. 2 described below in Section 7.

D. Local calls.

The Colorado Water Conservation Board ("CWCB") holds instream flow water rights on the Roaring Fork River from Maroon Creek to the Fryingpan River in the amount of 30.0 c.f.s from October 1 through March 31 and in the amount of 55.0 c.f.s. from April 1 through September 30. During any periods of Roaring Fork River administration due to a valid

call originating from these instream flow water rights, or from any other senior water right located below the SWSD Roaring Fork Intake Pipeline, but above the Fryingpan River confluence (excepting the Pitkin County RICD decreed in Case No. 10CW305, which is addressed below in Section 8), SWSD shall curtail diversions pursuant to the SWSD Roaring Fork Intake Pipeline water right unless and until local augmentation supplies are made available pursuant to a future water court or substitute water supply plan approval.

**THIRD CLAIM FOR RELIEF:  
CONDITIONAL APPROPRIATIVE RIGHTS OF EXCHANGE**

6. *Name of exchange:* SWSD Exchange No. 1 (Snowmass Creek/Roaring Fork).

A. Upstream Termini (“exchange to” structures):

(1) East Snowmass Brush Creek Ditch (Structure ID 653)

(a) Decrees: C.A. 1321, C.A. 5884, W-2903

(b) Location:

Decreed location: on the E. bank of East Snowmass Creek at a point about (80) rods S. and up the creek above a point 44°27' W. 6052 ft. from the S.W. corner of Sec. 2, T. 10 S., R. 86 W., 6th P.M.

Surveyed location (per SGM survey dated July 30, 2014): SW 1/4 SW 1/4 of Sec. 10, T. 10 S., R. 86 W., 6th P.M., at a point 1145 ft. W. of the E. Sec. line and 297 ft. N. of the S. Sec. line\*, UTM: NAD 83, Zone 13N, 4339693m N, 328522m E. **See Figure 1.**

(c) Source: East Snowmass Creek

(2) East Snowmass and Brush Creek Pipeline (Structure ID 1441)

(a) Decrees: C.A. 5884, W-2903, 92CW307

(b) Location:

Decreed location: on the E. bank of East Snowmass Creek at a point whence the NE corner of Sec. 10, T. 10, S., R. 86

W., 6th P.M., bears N. 39°25' E. 6,495 ft.

Surveyed location (per SGM survey dated July 30, 2014):  
SW 1/4 SW 1/4 of Sec. 10, T. 10 S., R. 86 W., 6th P.M., at a  
point 1178 ft. E. of the W. Sec. line and 296 ft. N. of the S.  
Sec. line\*, UTM: NAD 83, Zone 13N, 4339692m N,  
328532m E. **See Figure 1.**

(c) Source: East Snowmass Creek

(3) Snowmass Creek Pipeline (Structure ID 1442)

(a) Decrees: C.A. 5884, 92CW307, 93CW043

(b) Location:

Decreed location: on the right bank of Snowmass Creek at a  
point whence the SE corner of Sec. 3, T. 10 S., R. 86 W., 6th  
P.M., bears S. 57°34' E. 3417 ft.

PLSS location (per CDSS): NE 1/4 of SW 1/4 of Sec. 3, T.  
10 S., R. 86 W., 6th P.M., at a point approx. 2,744 ft. W. of  
the E. Sec. line, and 2,064 ft. N. of the S. Sec. line, UTM:  
NAD 83, Zone 13N, 4341830m N, 328989m E. **See Figure  
1.**

(c) Source: Snowmass Creek

\*Section lines in the Aspen/Snowmass area have not been officially  
surveyed by the USGS or BLM and thus any legal description based on  
section lines may not be accurate.

- B. Downstream Terminus: the confluence of the Roaring Fork and Fryingpan  
Rivers, generally located in the SW1/4 SE1/4 of Sec. 7, T. 8 S., R. 86 W.  
of the 6th P.M., at a point approximately 750 ft. from the S. sec. line and  
1440 ft. from the E. sec. line. **See Figure 1.**
- C. Appropriation date: December 31, 2017
- D. How appropriation was initiated: determination of need for this water  
right following engineering studies, approval of same by SWSD's Board  
of Directors, formation of intent to appropriate water rights, and the filing  
of this application.

- E. Maximum rate of exchange: 3.0 c.f.s., up to 400 acre-feet, conditional.\*

\*The cumulative rate and volume pursuant to the SWSD Exchange No. 2 (described below in Section 7) and this exchange shall not exceed 4.0 c.f.s. and 500 acre-feet.

- F. Uses: municipal, including but not limited to domestic, commercial, irrigation, recreation, industrial, and other beneficial uses associated with SWSD's provision of potable water service to its customers in and around the Town of Snowmass Village, Colorado, either directly or after storage in SWSD's present or future raw or treated water storage facilities. The water diverted by the exchange may also be used for any other purposes, and at any places of use, decreed to the "exchange to" structures.
- G. Remarks: SWSD is not filing for new water rights for the above-listed "exchange to" points, rather only to confirm appropriative rights of exchange that will allow SWSD to supplement the legal supply available from existing water rights when the Roaring Fork River is under administration due to placement of a valid call below the confluence with the Fryingpan River. SWSD's diversion of water at any one or combination of the three "exchange to" points pursuant to this exchange shall not exceed a cumulative rate of 3.0 c.f.s. and shall be subject to all existing agreements regarding SWSD's use of water at the these three locations. Releases from Ruedi Reservoir will be delivered at the confluence of the Fryingpan and Roaring Fork Rivers. The subject exchange will therefore operate from this confluence up the Roaring Fork River, Snowmass Creek, and, if applicable, East Snowmass Creek, to the locations described above in Section 6.A. Water diverted at these locations by exchange may be used directly or stored in SWSD's present or future storage facilities for later use for the purposes described above in Section 6.F. SWSD claims the right to conduct exchanges (1) from the downstream terminus upstream to any other point of diversion and/or storage located within the exchange reaches (including the termini) that is or becomes available for SWSD's use and (2) within the exchange reaches from points of diversion and/or storage to other such points that are or become available for SWSD's use. However, the SWSD Exchange No. 1 or any portion thereof shall not operate whenever a valid call is placed by a senior water right within the exchange reach, including but not limited to any valid calls placed by the CWCBC for existing instream flow water rights within the exchange reach.



7. *Name of exchange:* SWSD Exchange No. 2 (Roaring Fork).
- A. Upstream Terminus: SWSD Roaring Fork Intake Pipeline, described above in Applicant's First Claim. *See Figure 1.*
  - B. Downstream Terminus: the confluence of the Roaring Fork and Fryingpan Rivers, generally located in the SW1/4 SE1/4 of Sec. 7, T. 8 S., R. 86 W. of the 6th P.M., at a point approximately 750 ft. from the S. sec. line and 1440 ft. from the E. sec. line. *See Figure 1.*
  - C. Appropriation date: December 31, 2017.
  - D. How appropriation was initiated: determination of need for this water right following engineering studies, approval of same by SWSD's Board of Directors, formation of intent to appropriate water rights, and the filing of this application.
  - E. Maximum rate of exchange: 4.0 c.f.s., up to 500 acre-feet, conditional.\*  
  
\*The cumulative rate and volume pursuant to the SWSD Exchange No. 1 (described above in Section 6) and this exchange shall not exceed 4.0 c.f.s. and 500 acre-feet.
  - F. Uses: municipal, including but not limited to domestic, commercial, irrigation, recreation, industrial, and other beneficial uses associated with SWSD's provision of potable water service to its customers in and around the Town of Snowmass Village, Colorado, either directly or after storage in SWSD's present or future raw or treated water storage facilities.
  - G. Remarks: Releases from Ruedi Reservoir will be delivered at the confluence of the Fryingpan and Roaring Fork Rivers. The SWSD Exchange No. 2 will operate from this confluence up the Roaring Fork River to the location of the SWSD Roaring Fork Intake Pipeline in connection with operation of the plan for augmentation described above in SWSD's Second Claim. SWSD claims the right to conduct exchanges (1) from the downstream terminus upstream to any other point of diversion and/or storage located within the exchange reaches (including the terminus) that is or becomes available for SWSD use and (2) within the exchange reaches from points of diversion and/or storage to other such points that are or become available for SWSD's use. However, the SWSD Exchange No. 2 or any portion thereof shall not operate whenever a valid call is placed by a senior water right within the exchange reach, including

but not limited to any valid calls placed by the CWCB for any existing decreed instream flow water rights located within the exchange reach.

8. *Pitkin County RICD*. Pursuant to Section 24.F of the Final Decree in Case No. 10CW305, the Pitkin County RICD water right shall be subordinated in priority to water rights that (a) have points of diversion upstream of the RICD; (b) are not senior to the Pitkin County RICD water right; and (c) are decreed between January 1, 2011 and the fifteenth anniversary of entry of a decree in 10CW305 or the date upon which a cumulative 3,000 acre-feet subordination is achieved. SWSD therefore requests confirmation that the conditional surface water right and appropriative rights of exchange that SWSD seeks to confirm in this proceeding qualify for this subordination. The RICD Season depletion volume pursuant to the water rights claimed herein shall not exceed 500 acre-feet.

WHEREFORE, SWSD respectfully requests an Order of this Court:

- A. Granting the application herein;
- B. Confirming a conditional surface water right for the SWSD Roaring Fork Intake Pipeline described above in SWSD's First Claim;
- C. Approving the plan for augmentation described above in SWSD's Second Claim, with any terms and conditions necessary to prevent injury to other vested water rights;
- D. Confirming the conditional appropriative rights of exchange described above in SWSD's Third Claim;
- E. Confirming eligibility of the above-described water rights as beneficiaries of the subordination described in Section 24.F of the Final Decree in Case No. 10CW305 (Pitkin County RICD);
- F. Determining that all of the above-described water rights are part of an integrated water system for purposes of application of C.R.S. § 37-92-301(4)(b); and
- G. Granting any such other relief as the Court deems just and proper.

District Court, Water Division No. 5, Colorado  
Case No. 17CW; Application of the Snowmass Water and Sanitation District  
***Application for Conditional Surface Water Right, Approval of Plan for  
Augmentation, and Conditional Appropriative Rights of Exchange***  
Page 11 of 12

Respectfully submitted this 31st day of December, 2017.



Mark E. Hamilton, Esq.  
Tarn Udall, Esq.  
HOLLAND & HART LLP

District Court, Water Division No. 5, Colorado  
Case No. 17CW; Application of the Snowmass Water and Sanitation District  
***Application for Conditional Surface Water Right, Approval of Plan for  
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Page 12 of 12

## VERIFICATION

STATE OF COLORADO )  
 ) ss.  
COUNTY OF GARFIELD )

John Sikora, P.E., of AECOM, water resources consultant to Applicant, being first duly sworn upon oath, deposes and says that he has read the foregoing application and hereby verifies the same.

/s/ John Sikora

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John Sikora, P.E.,

Subscribed and sworn to before me this 29th day of December, 2017.

Witness my hand and official seal.

My commission expires: April 9, 2018.

/s/ Marie Rodriguez

Notary Public